

**New York State Department of Environmental Conservation
Division of Management & Budget Services**

Federal Accounting Unit, 10th Floor

625 Broadway, Albany, New York 12233-5022

Phone: (518) 402-9342 • **FAX:** (518) 402-9023

Website: www.dec.state.ny.us

SEP 29 2010

Ms. Judith Enck
Regional Administrator
U.S. Environmental Protection Agency
Region II Office
290 Broadway
New York, New York 10007-1866

Attention: Mr. Roch Baamonde, Chief
Grants & Contract Management Branch

Re: CS36000110 New York Clean Water State Revolving Fund
Capitalization Grant

Dear Ms. Enck,

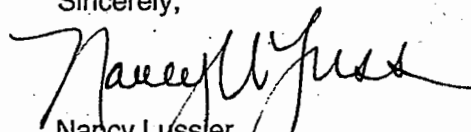
I am pleased to accept the Federal Fiscal Year (FFY) 2010 Capitalization Grant of \$224,898,000 for the New York State Clean Water State Revolving Fund (CWSRF). These moneys will enable the financing of many additional water quality protection projects.

We are requesting that one item included in the capitalization grant be modified through amendment. The grant offer shows the project period as beginning December 9, 2009. We would prefer that the project period begin on October 1, 2009, which coincides with the start of the Federal Fiscal Year. We were granted a similar amendment in FFY 2009 to revise the start of the project period to the start of the federal fiscal year and are requesting the same consideration for FFY 2010.

As instructed, we have executed and dated the two copies provided. One copy has been retained for our records and the remaining copy is enclosed.

Thank you for your cooperation and assistance with the CWSRF Capitalization Grants.

Sincerely,


Nancy Lussier
Director of Management & Budget

Enclosure: a/s

c: Mr. Alexander Grannis, Commissioner DEC
Mr. Matthew Driscoll, President EFC
Mr. Walter Andrews, USEPA Region II
Mr. Steven Vida, USEPA Region II
Ms. Jane Leu, USEPA Region II



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

Lussier
AA

SEP 1 - 2010

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Agreement No. CS360001-10

Alexander B. Grannis
Commissioner
New York State Department of
Environmental Conservation
625 Broadway
Albany, New York 12233-5022

Attention: Federal Grants

Subject: **Clean Water State Revolving Fund Capitalization Grant Award**
Fiscal Year 2010

Dear Commissioner Grannis:

I am pleased to offer to the New York State Department of Environmental Conservation (NYSDEC) a grant agreement in the amount of \$224,898,000 to continue the capitalization of the New York State Revolving Fund (SRF). This amount represents the total allotment of Fiscal Year 2010 funds available to New York State and is based on your application dated November 10, 2009, as revised July 2010. Additionally, the project/budget period approved for this agreement is December 9, 2009 through September 30, 2014.

Your attention is directed to the terms and conditions contained in the award document, particularly, Programmatic Condition No. 1 which includes the payment schedule for \$224,898,00. Additionally, the FFY 2010 Intended Use Plan (IUP) dated July 2010 is approved.

The enclosed award document is forwarded to you in duplicate. Please sign and date all copies, retain one for your files and return one to this office, Attn: Roch Baamonde, Chief, Grants & Contracts Management Branch. Completed documents must be returned within three calendar weeks after receipt or within any extension of time as may be granted by the USEPA.

We look forward to an early acceptance.

Sincerely,

for Richard J. Ferra

Donna J. Vizian
Assistant Regional Administrator
for Policy and Management

Enclosures

cc: Nancy Lussier, NYSDEC
Director of Management and Budget

Internet Address (URL) • <http://www.epa.gov>

Recycled/Recyclable • Printed with Vegetable Oil Based Inks on Recycled Paper (Minimum 50% Postconsumer content)

**New York State
Department of Environmental
Conservation**

M E M O R A N D U M

TO: Bill Brizzell, EFC

FROM: Michael Giovannone, Division of Management & Budget Services


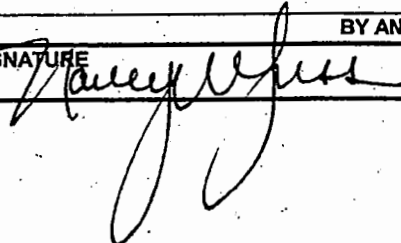
SUBJECT: Federal Grant Award

DATE: September 7, 2010

The attached grant award and or amendment has been received from the U.S. Environmental Protection Agency:

<u>Grant FGID Number</u>	<u>Description</u>
CS360001-10	FFY 2010 Clean Water SRF

Please review the proposed grant, and if it acceptable, please draft an undated acceptance letter for Nancy Lussier's signature. Please do not alter copies of the grant documents that will be returned to the awarding Federal agency. Any recommended changes to the grant amendment should be noted on an extra photocopy of the amendment. Mrs. Lussier will negotiate with the Federal grantor for any required changes that you suggest in your transmittal memorandum. Please route your proposal response using the 'grant clearance sheet' prescribed by chapter 700 of the Division of Fiscal Management Procedures. Include a copy of the acceptance letter and grant amendment for your Budget Analyst and for our files.

	U.S. ENVIRONMENTAL PROTECTION AGENCY Grant Agreement	ASSISTANCE ID NO.			DATE OF AWARD 08/25/2010
		PRG	DOC ID	AMEND#	
		CS	36000110	- 0	
		TYPE OF ACTION New			MAILING DATE 09/01/2010
PAYMENT METHOD: ASAP			ACH# 20040		
RECIPIENT TYPE: State			Send Payment Request to: EPA, Las Vegas Finance Center		
RECIPIENT: NYS Dept of Environmental Conservation 625 Broadway Albany, NY 12233-5010 EIN: 14-6013200			PAYEE: NYS Dept of Environmental Conservation 625 Broadway Albany, NY 12233-5010		
PROJECT MANAGER Timothy P. Burns, P.E. 625 Broadway Albany, NY 12233-5010 E-Mail: burns@nysefc.org Phone: 518-402-7396		EPA PROJECT OFFICER Jane Leu 290 Broadway, DEPP/DO New York, NY 10007-1866 E-Mail: Leu.Jane@epamail.epa.gov Phone: 212-637-3815		EPA GRANT SPECIALIST Yvette MarCardona Grants and Contracts Mgt Branch, OPM/GCMB E-Mail: MarCardona.Yvette@epamail.epa.gov Phone: 212-637-3409	
PROJECT TITLE AND DESCRIPTION FY10 NY Clean Water SRF Capitalization Grant New York State Department of Environmental Conservation FFY 2010 Clean Water State Revolving Fund Capitalization Grant (NY-CWSRF): This agreement is for a capitalization grant which provides funds for New York's Clean Water State Revolving Fund program to provide low interest financing to recipients for costs associated with the planning, design, and construction of eligible water quality improvement and protection projects throughout the State of New York. The objectives are to establish and manage an effective comprehensive Water Pollution and Control Revolving Funds program and to maintain a self-sustaining revolving fund so as to improve and protect water quality and public health.					
BUDGET PERIOD 12/09/2009 - 09/30/2014		PROJECT PERIOD 12/09/2009 - 09/30/2014		TOTAL BUDGET PERIOD COST \$269,877,600.00	
				TOTAL PROJECT PERIOD COST \$269,877,600.00	
NOTICE OF AWARD Based on your application dated 11/10/2009, including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA), hereby awards \$224,898,000. EPA agrees to cost-share 83.33% of all approved budget period costs incurred, up to and not exceeding total federal funding of \$224,898,000. Such award may be terminated by EPA without further cause if the recipient fails to provide timely affirmation of the award by signing under the Affirmation of Award section and returning all pages of this agreement to the Grants Management Office listed below within 21 days after receipt, or any extension of time, as may be granted by EPA. This agreement is subject to applicable EPA statutory provisions. The applicable regulatory provisions are 40 CFR Chapter 1, Subchapter B, and all terms and conditions of this agreement and any attachments.					
ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)			AWARD APPROVAL OFFICE		
ORGANIZATION / ADDRESS Grants and Contracts Management Branch 290 Broadway, 27th Floor New York, NY 10007-1866			ORGANIZATION / ADDRESS U.S. EPA, Region 2 Division of Environmental Planning and Protection 290 Broadway New York, NY 10007-1866		
THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY					
SIGNATURE OF AWARD OFFICIAL Digital signature applied by EPA Award Official		TYPED NAME AND TITLE Donna J. Vizian, Assistant Regional Administrator for Policy and Management		DATE 08/25/2010	
AFFIRMATION OF AWARD BY AND ON BEHALF OF THE DESIGNATED RECIPIENT ORGANIZATION					
SIGNATURE 		TYPED NAME AND TITLE Alexander Grannis, Commissioner		DATE SEP 29 2010	

2/11
New York State Department of Environmental Conservation

Division of Management & Budget Services, 10th Floor

625 Broadway, Albany, New York 12233-5010

Phone: (518) 402-9228 • Fax: (518) 402-9023

Website: www.dec.ny.gov



Joe Martens
Acting Commissioner

FEB 11 2011

Ms. Judith Enck
Regional Administrator
U.S. Environmental Protection Agency
Region II Office
290 Broadway
New York, New York 10007-1866

Attention: Mr. Roch Baamonde, Chief
Grants & Contract Management Branch

Re: CS360001-10 New York Clean Water State Revolving Fund
Capitalization Grant

Dear Ms. Enck,

I am pleased to accept Amendment No. 1 to the Federal Fiscal Year (FFY) 2010 Capitalization Grant. The amendment modified a condition requested by New York State to start the project period on October 1, 2009. This item was requested in our original capitalization grant acceptance letter.

As instructed, we have executed and dated the two copies provided. One copy has been retained for our records and the remaining copy is enclosed.

Thank you for your cooperation and assistance with the CWSRF Capitalization Grants.

Sincerely,

Nancy Lussier
Director of Management & Budget

Enclosure: a/s

c: Mr. Joseph Martens, Acting Commissioner DEC
Mr. Matthew Driscoll, President EFC
Mr. Walter Andrews, USEPA Region II
Mr. Steven Vida, USEPA Region II
Ms. Jane Leu, USEPA Region II

EPA REGION 2
CORRESPONDENCE
CONTROL OFFICE

2011 FEB 18 PM 12:32



U.S. ENVIRONMENTAL PROTECTION AGENCY

Assistance Amendment

ASSISTANCE ID NO.

PRG	DOC ID	AMEND#
CS -	36000110	- 1

DATE OF AWARD
02/01/2011

TYPE OF ACTION
No Cost Amendment

MAILING DATE
02/01/2011

PAYMENT METHOD:
ASAP

ACH#
20040

RECIPIENT TYPE:
State

Send Payment Request to:
EPA, Las Vegas Finance Center

RECIPIENT:

PAYEE:

NYS Dept of Environmental Conservation 625 Broadway Albany, NY 12233-5010 EIN: 14-6013200
--

NYS Dept of Environmental Conservation 625 Broadway Albany, NY 12233-5010

PROJECT MANAGER

Timothy P. Burns, P.E. 625 Broadway Albany, NY 12233-5010 E-Mail: burns@nysefc.org Phone: 518-402-7396
--

EPA PROJECT OFFICER

Jane Leu 290 Broadway, DEPP/DO New York, NY 10007-1866 E-Mail: Leu.Jane@epamail.epa.gov Phone: 212-637-3815

EPA GRANT SPECIALIST

Yvette MarCardona Grants and Contracts Mgt Branch, OPM/GCMB E-Mail: MarCardona.Yvette@epamail.epa.gov Phone: 212-637-3409
--

PROJECT TITLE AND EXPLANATION OF CHANGES

FY10 NY Clean Water SRF Capitalization Grant

In accordance with the letter dated September 29, 2010 your organization's request to revise the project/budget period dates is hereby approved. All terms and conditions to the original award remain in effect with the exception of Programmatic Condition No. 8, which is revised to reflect this approval. There is no increase in Federal Funds.

BUDGET PERIOD

10/01/2009 - 09/30/2014

PROJECT PERIOD

10/01/2009 - 09/30/2014

TOTAL BUDGET PERIOD COST

\$269,877,600.00

TOTAL PROJECT PERIOD COST

\$269,877,600.00

NOTICE OF AWARD

Based on your application dated 11/10/2009, including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA), hereby awards \$0. EPA agrees to cost-share 83.33% of all approved budget period costs incurred, up to and not exceeding total federal funding of \$224,898,000. Such award may be terminated by EPA without further cause if the recipient fails to provide timely affirmation of the award by signing under the Affirmation of Award section and returning all pages of this agreement to the Grants Management Office listed below within 21 days after receipt, or any extension of time, as may be granted by EPA. This agreement is subject to applicable EPA statutory provisions. The applicable regulatory provisions are 40 CFR Chapter 1, Subchapter B, and all terms and conditions of this agreement and any attachments.

ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)

ORGANIZATION / ADDRESS

Grants and Contracts Management Branch 290 Broadway, 27th Floor New York, NY 10007-1866

AWARD APPROVAL OFFICE

ORGANIZATION / ADDRESS

U.S. EPA, Region 2 Division of Environmental Planning and Protection 290 Broadway New York, NY 10007-1866
--

THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY

SIGNATURE OF AWARD OFFICIAL

Digital signature applied by EPA Award Official

TYPED NAME AND TITLE

Roch Baamonde, Grants Management Officer
--

DATE

02/01/2011

AFFIRMATION OF AWARD

BY AND ON BEHALF OF THE DESIGNATED RECIPIENT ORGANIZATION

SIGNATURE

<i>[Signature]</i>

TYPED NAME AND TITLE

Joseph Martens, Commissioner

DATE

FEB 11 2011

GRANTS & CONTRACTS
MANAGEMENT BRANCH

2011 FEB 22 AM 10:30

ENVIRONMENTAL PROTECTION
AGENCY REGION 2

FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	\$ 224,898,000	\$ 0	\$ 224,898,000
EPA In-Kind Amount	\$ 0	\$	\$ 0
Unexpended Prior Year Balance	\$ 0	\$	\$ 0
Other Federal Funds	\$ 0	\$	\$ 0
Recipient Contribution	\$ 0	\$	\$ 0
State Contribution	\$ 44,979,600	\$	\$ 44,979,600
Local Contribution	\$ 0	\$	\$ 0
Other Contribution	\$ 0	\$	\$ 0
Allowable Project Cost	\$ 269,877,600	\$ 0	\$ 269,877,600

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.458 - Capitalization Grants for State Revolving Fund	Clean Water Act: Secs. 205(m) 601-607	40 CFR PTS 31 & 35 SUBPRT K

Fiscal

[illegible]

Budget Summary Page

Table A - Object Class Category (Non-construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$0
2. Fringe Benefits	\$0
3. Travel	\$0
4. Equipment	\$0
5. Supplies	\$0
6. Contractual	\$0
7. Construction	\$0
8. Other	\$269,877,600
9. Total Direct Charges	\$269,877,600
10. Indirect Costs: % Base	\$0
11. Total (Share: Recipient <u>16.67</u> % Federal <u>83.33</u> %.)	\$269,877,600
12. Total Approved Assistance Amount	\$224,898,000
13. Program Income	\$0
14. Total EPA Amount Awarded This Action	\$0
15. Total EPA Amount Awarded To Date	\$224,898,000

Administrative Conditions

All Administrative Conditions remain the same

Programmatic Conditions

All Programmatic Conditions remain the same with the exception of the following:

Programmatic Condition No. 8 is revised as follows:

8. PRE-AWARD COSTS

In accordance with 40 CFR § 35.113, NYSDEC may charge pre-award costs (both Federal and non-Federal matching shares) incurred from the beginning of the funding period established in the grant agreement (**10/1/2009**) provided that such costs were contained in the approved application. The pre-award costs must be in conformance with the requirements set forth in OMB Circular A-87 and with applicable Agency regulations, policies and guidelines.

CS - 36000110 - 1 Page 2

FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	\$ 224,898,000	\$ 0	\$ 224,898,000
EPA In-Kind Amount	\$ 0	\$	\$ 0
Unexpended Prior Year Balance	\$ 0	\$	\$ 0
Other Federal Funds	\$ 0	\$	\$ 0
Recipient Contribution	\$ 0	\$	\$ 0
State Contribution	\$ 44,979,600	\$	\$ 44,979,600
Local Contribution	\$ 0	\$	\$ 0
Other Contribution	\$ 0	\$	\$ 0
Allowable Project Cost	\$ 269,877,600	\$ 0	\$ 269,877,600

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.458 - Capitalization Grants for State Revolving Fund	Clean Water Act: Secs. 205(m) 601-607	40 CFR PTS 31 & 35 SUBPRT K

[illegible]

Budget Summary Page

Table A - Object Class Category (Non-construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$0
2. Fringe Benefits	\$0
3. Travel	\$0
4. Equipment	\$0
5. Supplies	\$0
6. Contractual	\$0
7. Construction	\$0
8. Other	\$269,877,600
9. Total Direct Charges	\$269,877,600
10. Indirect Costs: % Base	\$0
11. Total (Share: Recipient 16.67 % Federal 83.33 %.)	\$269,877,600
12. Total Approved Assistance Amount	\$224,898,000
13. Program Income	\$0
14. Total EPA Amount Awarded This Action	\$0
15. Total EPA Amount Awarded To Date	\$224,898,000

Administrative Conditions

All Administrative Conditions remain the same

Programmatic Conditions

All Programmatic Conditions remain the same with the exception of the following:

Programmatic Condition No. 8 is revised as follows:

8. PRE-AWARD COSTS

In accordance with 40 CFR § 35.113, NYSDEC may charge pre-award costs (both Federal and non-Federal matching shares) incurred from the beginning of the funding period established in the grant agreement **(10/1/2009)** provided that such costs were contained in the approved application. The pre-award costs must be in conformance with the requirements set forth in OMB Circular A-87 and with applicable Agency regulations, policies and guidelines.

MODE = MEMORY TRANSMISSION

START=FEB-01 12:50

END=FEB-01 12:51

FILE NO.=838

STN NO.	COMM.	ONE-TOUCH/ ABBR NO.	STATION NAME/EMAIL ADDRESS/TELEPHONE NO.	PAGES	DURATION
001	OK	8	915184027456	005/005	00:00:40

OPTIONAL FORM 99 (7-90)

ORIGINALS WILL BE MAILED

FAX TRANSMITTAL

To	From	# of pages
TIMOTHY BURNS	YVETTE CARDONA	
Dept./Agency	Phone #	
NYSDEC/ERC	212-637-3409	
Fax #	Fax #	
518-402-7456	212-637-3518	

NSN 7540-01-317-7368 5099-101 GENERAL SERVICES ADMINISTRATION

-US EPA REGION 2

REGION 2 - ***** - 1 212 637 3518- *****

ENVIRONMENTAL PROTECTION AGENCY
REGION 2
ROADWAY
NY 10007-1866



FEB - 1 2010

Agreement No. CS360001-10
Amendment No. 1

OPTIONAL FORM 99 (7-90)

ORIGINALS WILL BE MAILED

FAX TRANSMITTAL

To	From	# of pages
TIMOTHY BURNS	YVETTE CARDONA	
Dept./Agency	Phone #	
NYSDEC/ERC	212-637-3409	
Fax #	Fax #	
518-402-7456	212-637-3518	

NSN 7540-01-317-7368 5099-101 GENERAL SERVICES ADMINISTRATION

REQUESTED

OPTIONAL FORM 99 (7-90)

Department of
Conservation
2233-5022
Grants

Water State Revolving Fund Capitalization Grant Award Fiscal Year 2010

Mr. Martens:

I am pleased to enclose Amendment No. 1 to the above-referenced agreement. In my September 29, 2010 letter from Nancy Lussier, Director of Management and Administration, the budget period dates are hereby amended to be October 1, 2009 through September 30, 2010. All terms and conditions to the original award remain in effect with the exception of the automatic Condition No. 8, which has been revised. There is no increase in the award amount.

The award document is forwarded to you in duplicate. Please sign and date all copies for your files and return one to this office, Attn: Roch Baamonde, Chief, Grants Management Branch. Completed documents must be returned within three calendar days or within any extension of time as may be granted by the USEPA.

Thank you for your early acceptance.

Sincerely,

Roch Baamonde
Roch Baamonde, Chief
Grants & Contracts Management Branch

Enclosures

cc: Nancy Lussier, NYSDEC
Director of Management and Budget

Matthew Driscoll, President and CEO
New York State Environmental Facilities Corporation (NYSEFC)

Timothy Burns, NYSEFC

William Brizzel, NYSEFC

Internet Address (URL) = <http://www.epa.gov>

Recycled/Recyclable - Printed with Vegetable Oil Based Inks on Recycled Paper (Minimum 50% Postconsumer content)



U.S. ENVIRONMENTAL PROTECTION AGENCY

Grant Agreement

ASSISTANCE ID NO.

PRG	DOC ID	AMEND#
CS -	36000110	- 0

DATE OF AWARD
08/25/2010

TYPE OF ACTION

New

MAILING DATE

09/01/2010

PAYMENT METHOD:

ASAP

ACH#

20040

RECIPIENT TYPE:
State

Send Payment Request to:
EPA, Las Vegas Finance Center

RECIPIENT:

NYS Dept of Environmental Conservation
625 Broadway
Albany, NY 12233-5010
EIN: 14-6013200

PAYEE:

NYS Dept of Environmental Conservation
625 Broadway
Albany, NY 12233-5010

PROJECT MANAGER

Timothy P. Burns, P.E.
625 Broadway
Albany, NY 12233-5010
E-Mail: burns@nysefc.org
Phone: 518-402-7396

EPA PROJECT OFFICER

Jane Leu
290 Broadway, DEPP/DO
New York, NY 10007-1866
E-Mail: Leu.Jane@epamail.epa.gov
Phone: 212-637-3815

EPA GRANT SPECIALIST

Yvette MarCardona
Grants and Contracts Mgt Branch, OPM/GCMB
E-Mail: MarCardona.Yvette@epamail.epa.gov
Phone: 212-637-3409

PROJECT TITLE AND DESCRIPTION

FY10 NY Clean Water SRF Capitalization Grant

New York State Department of Environmental Conservation FFY 2010 Clean Water State Revolving Fund Capitalization Grant (NY-CWSRF): This agreement is for a capitalization grant which provides funds for New York's Clean Water State Revolving Fund program to provide low interest financing to recipients for costs associated with the planning, design, and construction of eligible water quality improvement and protection projects throughout the State of New York. The objectives are to establish and manage an effective comprehensive Water Pollution and Control Revolving Funds program and to maintain a self-sustaining revolving fund so as to improve and protect water quality and public health.

BUDGET PERIOD

12/09/2009 - 09/30/2014

PROJECT PERIOD

12/09/2009 - 09/30/2014

TOTAL BUDGET PERIOD COST

\$269,877,600.00

TOTAL PROJECT PERIOD COST

\$269,877,600.00

NOTICE OF AWARD

Based on your application dated 11/10/2009, including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA), hereby awards \$224,898,000. EPA agrees to cost-share 83.33% of all approved budget period costs incurred, up to and not exceeding total federal funding of \$224,898,000. Such award may be terminated by EPA without further cause if the recipient fails to provide timely affirmation of the award by signing under the Affirmation of Award section and returning all pages of this agreement to the Grants Management Office listed below within 21 days after receipt, or any extension of time, as may be granted by EPA. This agreement is subject to applicable EPA statutory provisions. The applicable regulatory provisions are 40 CFR Chapter 1, Subchapter B, and all terms and conditions of this agreement and any attachments.

ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)

ORGANIZATION / ADDRESS

Grants and Contracts Management Branch
290 Broadway, 27th Floor
New York, NY 10007-1866

AWARD APPROVAL OFFICE

ORGANIZATION / ADDRESS

U.S. EPA, Region 2
Division of Environmental Planning and Protection
290 Broadway
New York, NY 10007-1866

THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY

SIGNATURE OF AWARD OFFICIAL

Digital signature applied by EPA Award Official

TYPED NAME AND TITLE

Donna J. Vizian, Assistant Regional Administrator for Policy and Management

DATE

08/25/2010

AFFIRMATION OF AWARD

BY AND ON BEHALF OF THE DESIGNATED RECIPIENT ORGANIZATION

SIGNATURE

TYPED NAME AND TITLE

Alexander Grannis, Commissioner

DATE

SEP 29 2010

GRANTS & CONTRACTS
MANAGEMENT BRANCH

2010 OCT 13 PM 3:14

ENVIRONMENTAL PROTECTION
AGENCY REGION 2

Done 10/15/10

CS - 36000110 - 0 Page 2

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.458 - Capitalization Grants for State Revolving Fund	Clean Water Act: Secs. 205(m) 601-607	40 CFR PTS 31 & 35 SUBPRT K

Fiscal									
Site Name	Req No	FY	Approp. Code	Budget Organization	PRC	Object Class	Site/Project	Cost Organization	Obligation / Deobligation
-	1002HE0494	10	E2	022	202B80E	4111	10CA		224,898,000
									224,898,000

Budget Summary Page

Table A - Object Class Category (Non-construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$0
2. Fringe Benefits	\$0
3. Travel	\$0
4. Equipment	\$0
5. Supplies	\$0
6. Contractual	\$0
7. Construction	\$0
8. Other	\$269,877,600
9. Total Direct Charges	\$269,877,600
10. Indirect Costs: % Base	\$0
11. Total (Share: Recipient 16.67 % Federal 83.33 %.)	\$269,877,600
12. Total Approved Assistance Amount	\$224,898,000
13. Program Income	\$0
14. Total EPA Amount Awarded This Action	\$224,898,000
15. Total EPA Amount Awarded To Date	\$224,898,000

Administrative Conditions

1. UTILIZATION OF SMALL, MINORITY AND WOMEN'S BUSINESS ENTERPRISES

GENERAL COMPLIANCE, 40 CFR, Part 33

The recipient agrees to comply with the requirements of EPA's Program for Utilization of Small, Minority and Women's Business Enterprises (MBE/WBE) in procurement under assistance agreements, contained in 40 CFR, Part 33.

FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D

A recipient must negotiate with the appropriate EPA award official, or his/her designee, fair share objectives for MBE and WBE participation in procurement under the financial assistance agreements.

Current Fair Share Objective/Goal

The dollar amount of this assistance agreement is \$250,000, or more; or the total dollar amount of all of the recipient's non-TAG assistance agreements from EPA in the current fiscal year is \$250,000, or more. The **New York State Department of Environmental Conservation** has negotiated the following, applicable MBE/WBE fair share objectives/goals with EPA as follows:

- for the New York Upstate Region MBE: Construction is 6%; Equipment, Supplies and Services are 8.8%.
- for the New York Upstate Region WBE: Construction is 6%; Equipment, Supplies and Services are 8.8%.
- for the New York City Region MBE: Construction is 21.5%; Equipment, Supplies and Services are 18.8%.
- for the New York City Region WBE: Construction is 13.7%; Equipment, Supplies and Services are 20.5%.

Negotiating Fair Share Objectives/Goals, 40 CFR, Section 33.404

If the recipient has not yet negotiated its MBE/WBE fair share objectives/goals, the recipient agrees to submit proposed MBE/WBE objectives/goals based on an availability analysis, or disparity study, of qualified MBEs and WBEs in their relevant geographic buying market for construction, services, supplies and equipment.

The recipient agrees to submit proposed fair share objectives/goals, together with the supporting availability analysis or disparity study, to the Regional MBE/WBE Coordinator within 120 days of its acceptance of the financial assistance award. EPA will respond to the proposed fair share objective/goals within 30 days of receiving the submission. If proposed fair share objective/goals are not received within the 120 day time frame, the recipient may not expend its EPA funds for procurements until the proposed fair share objective/goals are submitted.

SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C

Pursuant to 40 CFR, Section 33.301, the recipient agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to ensure that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

- (a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- (b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes,

whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.

(c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.

(d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.

(e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.

(f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

MBE/WBE REPORTING, 40 CFR, Part 33, Sections 33.502 and 55.503

The recipient agrees to complete and submit EPA Form 5700-52A, "MBE/WBE Utilization Under Federal Grants, Cooperative Agreements and Interagency Agreements" beginning with the Federal fiscal year reporting period the recipient receives the award, and continuing until the project is completed. Only procurements with certified MBE/WBEs are counted toward a recipient's MBE/WBE accomplishments.

The reports must be submitted semiannually for the periods ending March 31st and September 30th for:

- Recipients of financial assistance agreements that capitalize revolving loan programs (CWSRF, DWSRF, Brownfields); and
- All other recipients not identified as annual reporters (40 CFR Part 30 and 40 CFR Part 35, Subpart A and Subpart B recipients are annual reporters).

The reports are due within 30 days of the end of the semiannual reporting periods (April 30th and October 30th). Reports should be sent to Michele Junker, the Region 2 DBE Coordinator. Final MBE/WBE reports must be submitted within 90 days after the project period of the grant ends. Your grant cannot be officially closed without all MBE/WBE reports.

EPA Form 5700-52A may be obtained from the EPA Office of Small Business Program's Home Page on the Internet at <http://www.epa.gov/osbp/grants.htm>.

CONTRACT ADMINISTRATION PROVISIONS, 40 CFR, Section 33.302

The recipient agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

BIDDERS LIST, 40 CFR, Section 33.501(b) and (c)

Recipients of a Continuing Environmental Program Grant or other annual reporting grant, agree to create and maintain a bidders list. Recipients of an EPA financial assistance agreement to capitalize a revolving loan fund also agree to require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see 40 CFR, Section 33.501 (b) and (c) for specific requirements and exemptions.

2. FINANCIAL STATUS REPORTS/GRANT CLOSEOUT

A) Interim Federal Financial Reports (FFRs)

Pursuant to 40 CFR 31.41(b) and 31.50(b), EPA recipients shall submit an interim annual Federal Financial Report (SF-425) to EPA no later than 90 calendar days following each anniversary of the start date of the agreement.

B) Final Federal Financial Report

At the end of the project, the recipient must submit a final Federal Financial Report to EPA no later than 90 calendar days after the end of the project period. The form is available on the internet at

<http://www.epa.gov/ocfo/finservices/forms.htm> . All FFRs must be submitted to the Las Vegas Finance Center:

U.S. Environmental Protection Agency
Las Vegas Finance Center
PO Box 98515
Las Vegas, NV 89119

or by Fax to: 702-798-2423.

The LVFC will make adjustments, as necessary, to obligated funds after reviewing and accepting a final Federal Financial Report. Recipients will be notified and instructed by EPA if they must complete any additional forms for the closeout of the assistance agreement.

EPA may take enforcement actions in accordance with 40 CFR 31.43 if the recipient does not comply with this term and condition.

C) Closeout

The Administrative Closeout Phase for this grant will be initiated with the submission of a "final" FFR. At that time, the recipient must submit the following forms/reports to the EPA Region 2 Grants and Contracts Management Branch, if applicable:

- Federally Owned Property Report
- An Inventory of all Property Acquired with federal funds
- Contractor's or Grantee's Invention Disclosure Report (EPA Form 3340-3)

Additionally, the recipient's Final Request for Payment should be submitted to the LVFC.

3. **HOTEL-MOTEL FIRE SAFETY**

Pursuant to 40 CFR 30.18, if applicable, and 15 USC 2225a, the recipient agrees to ensure that all space for conferences, meetings, conventions, or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (PL 101-391, as amended). Recipients may search the Hotel-Motel National Master List at <http://www.usfa.dhs.gov/applications/hotel/> to see if a property is in compliance (FEMA ID is currently not required), or to find other information about the Act.

4. **MANAGEMENT FEES**

Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term "management fees or similar charges" refers to expenses added to the direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities, or for other similar costs which are not allowable under this assistance agreement. Management fees or similar charges may not be used to improve or expand the project funded under this agreement, except to the extent authorized as a direct cost of carrying out the scope of work.

5. **EXTENSION OF PROJECT/BUDGET PERIOD EXPIRATION DATE**

If a no cost time extension is necessary to extend the period of availability of funds (budget period), the recipient must submit a written request, including a justification as to why additional time is needed and an estimated date of completion to the EPA, Region 2, Grants and Contracts Management Branch prior to the budget/project period expiration dates. An interim FFR (SF-425), which covers all expenditures and obligations to date, must also be submitted to the Las Vegas Finance Office at the address below.

U.S. Environmental Protection Agency
Las Vegas Finance Center
PO Box 98515
Las Vegas, NV 89119

6. RECYCLING AND WASTE PREVENTION

In accordance with the policies set forth in EPA Order 1000.25 and Executive Order 13423, Strengthening Federal Environmental, Energy and Transportation Management (January 24, 2007) and or 40 CFR 30.16, the recipient agrees to use recycled paper and double sided printing for all reports which are prepared as a part of this agreement and delivered to EPA. This requirement does not apply to reports prepared on forms supplied by EPA, or to Standard Forms, which are printed on recycled paper and are available through the General Services Administration.

STATE AGENCIES AND POLITICAL SUBDIVISIONS:

In accordance with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962) any State agency or agency of a political subdivision of a State which is using appropriated Federal funds shall comply with the requirements set forth. Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds \$10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

7. SINGLE AUDITS

In accordance with OMB Circular A-133, which implements the single Audit Act, the recipient hereby agrees to obtain a single audit from an independent auditor if it expends \$500,000 or more in total Federal funds in any fiscal year. Within nine months after the end of a recipient's fiscal year or 30 days after receiving the report from the auditor, the recipient shall submit a copy of the SF-SAC and a Single Audit Report Package.

For fiscal periods 2002 to 2007 recipients are to submit hardcopy to the following address:

Federal Audit Clearinghouse
1201 East 10th Street
Jeffersonville, IN 47132

For fiscal periods 2008 and beyond the recipient MUST submit a copy of the SF-SAC and a Single Audit Report Package, using the Federal Audit Clearinghouse's Internet Data Entry System. Complete information on how to accomplish the 2008 and beyond Single Audit Submissions you will need to visit the Federal Audit Clearinghouse Web site: <http://harvester.census.gov/fac/>

8. SUBAWARD POLICY

a. The recipient agrees to:

- (1) Establish all subaward agreements in writing;
 - (2) Maintain primary responsibility for ensuring successful completion of the EPA-approved project (this responsibility cannot be delegated or transferred to a subrecipient);
 - (3) Ensure that any subawards comply with the standards in Section 210(a)-(d) of OMB Circular A-133 and are not used to acquire commercial goods or services for the recipient;
 - (4) Ensure that any subawards are awarded to eligible subrecipients and that proposed subaward costs are necessary, reasonable, and allocable;
 - (5) Ensure that any subawards to 501(c)(4) organizations do not involve lobbying activities;
 - (6) Monitor the performance of their recipients and ensure that they comply with all applicable regulations, statutes, and terms and conditions which flow down in the subaward;
 - (7) Obtain EPA's consent before making a subaward to a foreign or international organization, or a subaward to be performed in a foreign country;
- and

(8) Obtain approval from E. A for any new subaward work that is not outlined in the approved work plan in accordance with 40 CFR Parts 30.25 and 31.30, as applicable.

- b. Any questions about subrecipient eligibility or other issues pertaining to subawards should be addressed to the recipient's EPA Project Officer. Additional information regarding subawards may be found at <http://www.epa.gov/ogd/guide/subaward-policy-part-2.pdf>. Guidance for distinguishing between vendor and subrecipient relationships and ensuring compliance with Section 210(a)-(d) of OMB Circular A-133 can be found at <http://www.epa.gov/ogd/guide/subawards-appendix-b.pdf> and <http://www.whitehouse.gov/omb/circulars/a133/a133.html>.
- c. The recipient is responsible for selecting its subrecipients and, if applicable, for conducting subaward competitions.

9. SUSPENSION AND DEBARMENT

Recipient shall fully comply with Subpart C of 2 CFR Part 180 and 2 CFR Part 1532, entitled "Responsibilities of Participants Regarding Transactions (Doing Business with Other Persons)." Recipient is responsible for ensuring that any lower tier covered transaction as described in Subpart B of 2 CFR Part 180 and 2 CFR Part 1532, entitled "Covered Transactions," includes a term or condition requiring compliance with Subpart C. Recipient is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. Recipient acknowledges that failing to disclose the information as required at 2 CFR 180.335 may result in the delay or negation of this assistance agreement, or pursuance of legal remedies, including suspension and debarment.

Recipient may access the Excluded Parties List System at www.epls.gov. This term and condition supersedes EPA Form 5700-49, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters."

10. TRAFFICKING VICTIM PROTECTION ACT OF 2000

To implement requirements of Section 106 of the Trafficking Victims Protection Act of 2000, as amended, the following provisions apply to this award:

- a. We, as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity: (1) is determined to have violated an applicable prohibition in the Prohibition Statement below; or (2) has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in the Prohibition Statement below through conduct that is either: (a) associated with performance under this award; or (b) imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 CFR part 1532. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in the Prohibition Statement below.
- b. Our right to terminate unilaterally that is described in paragraph a of this award term: (1) implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and (2) is in addition to all other remedies for noncompliance that are available to us under this award.
- c. You must include the requirements of the Prohibition Statement below in any subaward you make to a private entity.

Prohibition Statement - You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not engage in severe forms of trafficking in persons during the period of time that the award is in effect; procure a commercial sex act during the period of time that the award is in effect; or use forced labor in the performance of the award or subawards under the award.

11. DRUG-FREE WORKPLACE CERTIFICATION

The recipient organization of this EPA assistance agreement must make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in Title 40 CFR 36.200 - 36.230. Additionally, in accordance with these regulations, the recipient organization must identify all known workplaces under its federal awards, and keep this information on file during the performance of the award.

Those recipients who are individuals must comply with the drug-free provisions set forth in Title 40 CFR 36.300.

The consequences for violating this condition are detailed under Title 40 CFR 36.510. Recipients can access the Code of Federal Regulations (CFR) Title 40 Part 36 at http://www.access.gpo.gov/nara/cfr/waisidx_06/40cfr36_06.html.

12. REIMBURSEMENT LIMITATION

EPA's financial obligations to the recipient are limited by the amount of federal funding awarded to date as shown on line 15 in its EPA approved budget. If the recipient incurs costs in anticipation of receiving additional funds from EPA, it does so at its own risk.

13. LOBBYING AND LITIGATION

The chief executive officer of this recipient agency shall ensure that no grant funds awarded under this assistance agreement are used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. The recipient shall abide by its respective OMB Circular (A-21, A-87, or A-122), which prohibits the use of federal grant funds for litigation against the United States or for lobbying or other political activities.

RESTRICTIONS ON LOBBYING

The recipient agrees to comply with Title 40 CFR Part 34, *New Restrictions on Lobbying*. The recipient shall include the language of this provision in award documents for all subawards exceeding \$100,000, and require that subrecipients submit certification and disclosure forms accordingly.

In accordance with the Byrd Anti-Lobbying Amendment, any recipient who makes a prohibited expenditure under Title 40 CFR Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.

14. ASSOCIATION OF COMMUNITY ORGANIZATIONS FOR REFORM NOW (ACORN)

Congress has prohibited EPA from using its FY 2010 appropriations to provide funds to the Association of Community Organizations for Reform Now (ACORN) or any of its subsidiaries. None of the funds provided under this agreement may be used for subawards/subgrants or contracts to ACORN or its subsidiaries. Recipients should direct any questions about this prohibition to their EPA Grants Management Office.

15. ADVANCE METHOD OF PAYMENT

In accordance with EPA regulations, the recipient is authorized to receive advance payments under this agreement, provided that the recipient takes action to minimize the time elapsing between the transfer of funds from EPA and the disbursement of those funds. The recipient shall request Federal payments by completing the EPA Payment Requests Form (EPA Form 190-F-04-001) and faxing it to the Las Vegas Finance Center at 702-798-2423. This form can be found at www.epa.gov/ogd/forms/forms.htm.

Programmatic Conditions

1. AUTOMATED STANDARD APPLICATION FOR PAYMENTS (ASAP)

The New York State Department of Environmental Conservation (NYSDEC), acting on behalf of the State of New York, agrees to accept payment from the United States Environmental Protection Agency (EPA) with funds to be made available from the FY 2010 Title VI allotment pursuant to the Clean Water Act, as amended, (the Act), in accordance with the below payment schedule established under Section 601(b) of the Act and will deposit all such payments into the State Revolving Fund (SRF) in accordance with Title VI. Payments, cash draws and disbursements are defined and in accordance with the Initial Guidance for the State Revolving Fund pursuant to 40 CFR Part 35 Subpart K and the Operating Agreement.

As per EPA's publication, EPA 430/09-88-009, dated July 1988, entitled, "Letter of Credit, How is it Used in EPA's State Revolving Fund Program", a payment in the SRF Program is an action by EPA to increase the amount of funds available for cash draw in the Letter of Credit (i.e. the ceiling). Through a payment, the EPA makes funds available to the State up to the amount of the capitalization grant. A payment is not a transfer of cash to the State but only an authorization making funds available for transfer to the State when a cash draw request is submitted. A payment schedule, indicating the timing and size of the payment or payments to be made will be entered into between EPA and the State. It will be based on the State's projection of binding commitments, the rules for cash draws and the use of the funds.

In consideration of the above, payment from the ASAP shall be made in accordance with the following schedule. Future cash draws may not exceed the amount shown below:

\$6,926,300 (Administration)**

August, 2010*

\$217,971,700 (projects)**

August, 2010*

*** Upon receipt and acceptance of Grant Agreement.**

****Administration Costs:** Under Section 603(d)(7), money in the SRF maybe used for the reasonable costs of administering the Fund, provided that the amount does not exceed 4% of all grant awards to such fund under this title. Under this agreement, total Administration costs requested are \$6,926,300 of NYSDEC's allowable 4% of Administration costs of \$8,995,920. These administrative costs will be passed through to the NYS Environmental Facilities Corporation, which will be administering the SRF under a subaward. The remaining \$2,069,620, is currently applied to the Project costs, increasing project funds from \$215,902,080 to \$217,971,700, while banking this amount for future years' use under the Administration costs. "Project funds" available for the year that NYSDEC requests use of the "banked Administration costs," will be reduced accordingly to cover the "banked Administration costs."

2. CASH DRAW REQUIREMENTS

The NYSDEC agrees to the following conditions in accepting this Grant Agreement under the ASAP method of financing:

- (a) Cash draws made pursuant to 40 CFR 35.3160(b)(2) must be disbursed to refinancing recipients within three days of OSC cash draw.
- (b) All other cash draws will be made only to meet immediate disbursement needs. The three day disbursement requirement is in accordance with the ASAP Payment System.
- (c) NYSDEC shall provide timely reporting of cash disbursements and balances as required by the ASAP Manual.

3. GENERAL ADMINISTRATIVE REQUIREMENTS

NYSDEC and NYSEFC agrees pursuant to 40 CFR Part 35, Subpart K, to administer the State Revolving Fund program in accordance with the terms, agreements, assurances and representations made within the Operation Agreement, the Intended Use Plan and the original application for Federal assistance dated November 10, 2009, as revised on July, 2010. The scopes of work for this Grant shall be the projects listed in the FY 2010 Intended Use Plan dated September 2009, as amended April 2010.

4. PROGRAM INCOME/ADMINISTRATIVE FEES

In accordance with 40 CFR §31.25(g)(2), the recipient is authorized to add program income generated under this agreement to the funds committed to the grant agreement by EPA and the grantee. Fees classified as program income are authorized to be used for eligible CWSRF project assistance, administration of the CWSRF program and for State Match. In addition to the purposes authorized for program income fees, fees classified as non-program income may be used for various general water quality program purposes. All fees shall be audited annually and reported on in both the Intended Use Plan and the Annual Report.

5. STATE MATCH

In accordance with 40 CFR §35.3135(b), NYSDEC shall provide at least 20 percent matching share, or **\$44,979,600**, of the Federal funds awarded. The NYSDEC must provide its proportional cash match at the time it draws Federal funds unless NYSDEC draws all of its match fund before drawing any Federal funds.

6. PURCHASE OF COMPUTER SOFTWARE AND HARDWARE

New York State Department of Environmental Conservation (NYSDEC) and the New York State Environmental Facilities Corporation (NYSEFC) shall not incur any costs, *with a unit cost in excess of \$5,000*, associated with the purchase of computer software or hardware under this agreement until the required specifications and justifications for such equipment are submitted to and approved by the EPA Project Officer and EPA Region 2's Information Systems Branch.

7. DISPOSITION OF EQUIPMENT AND SUPPLIES

NYSDEC and NYSEFC shall comply with the disposition of any equipment approved under this grant in accordance with 40 CFR 31.32.

8. PRE-AWARD COSTS

In accordance with 40 CFR § 35.113, NYSDEC and NYSEFC may charge pre-award costs (both Federal and non-Federal matching shares) incurred from the beginning of the funding period established in the grant agreement (**12/9/2009**) provided that such costs were contained in the approved application. The pre-award costs must be in conformance with the requirements set forth in OMB Circular A-87 and with applicable Agency regulations, policies and guidelines.

9. PAYMENT TO INDIVIDUAL CONSULTANTS

EPA participation in the salary rate (excluding overhead) paid to individual consultants retained by recipients or by a recipient's contractors or subcontractors shall be limited to the maximum daily rate for a Level IV of the Executive Schedule (formerly GS-18), to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. As of January 1, 2010, the limit is \$596.00 per day and \$74.50 per hour. This rate does not include transportation and subsistence costs for travel performed (the recipient will pay these in accordance with their normal travel reimbursement practices).

Subagreements with firms for services which are awarded using the procurement requirements in 40 CFR 30 or 31, as applicable, are not affected by this limitation unless the terms of the contract provide the recipient with responsibility for the selection, direction, and control of the individuals who will be providing services under the contract at an hourly or daily rate of compensation. See 40 CFR 31.36(j) or 30.27(b).

10. CLEAN WATER NATIONAL INFORMATION MANAGEMENT SYSTEM (CWNIMS)

NYSDEC and NYSEFC agree to enter data, as required by EPA to the Clean Water National Information Management System (CWNIMS). EPA agrees to provide technical assistance to the State in its use of the CWNIMS as a management information system.

1. **Reporting Requirements:** The recipient of funds for the State Revolving Funds from P.L. 111-88, the FY 2010 Interior and Environment Appropriation, agrees to comply with all requests for data related to the use of the funds under Subchapter VI of the Clean Water Act (CWA) or Section 1452 of the Safe Drinking Water Act (SDWA), and to report all uses of the funds no less than quarterly, as EPA specifies for the CWSRF Benefits Reporting database and the Drinking Water Project Benefits Reporting database. This reporting shall include but not be limited to data with respect to compliance with the Green Project Reserve and additional subsidization requirements as specified in the FY 2010 Interior and Environment Appropriation and the Conference Report (H. Rpt. 111-316) and as outlined in the FY 2010 Procedures document, and other data as necessary to carry out the authorities cited in this Grant Condition.
2. **Annual Report Information:** In accordance with 40 CFR 31.40, 40 CFR 35.3165, and 40 CFR 35.3570, the recipient agrees to provide in its Annual Report information regarding key project characteristics, milestones, and environmental/public health protection results in the following areas:
 - a) achievement of the outputs and outcomes established in the Intended Use Plan;
 - b) the reasons for delays if established outputs or outcomes were not met;
 - c) any additional pertinent information on environmental results;
 - d) compliance with the Green Project Reserve requirement as outlined in the FY 2010 procedures document; and
 - e) compliance with the additional subsidization requirement as described in the FY 2010 procedures document.
3. **Additional Subsidies:** The 2010 Appropriation to the CWSRF and DWSRF programs requires that a portion of the capitalization grant funds be used to provide additional subsidization, while relying on the purposes of the Funds in their underlying acts.

The application of the additional subsidies – in the form in which they are authorized in the FY 2010 Appropriation – to the base SRF programs raises important issues for the underlying SRF programs. While the DWSRF program has since its inception offered discretion to States to provide additional subsidization, that authority was closely circumscribed by requirements that communities assisted meet the State's definition of "disadvantaged," and that the subsidies provided in any year could not exceed 30 percent of the capitalization grant. In contrast, the FY 2010 Appropriation is more demanding and expansive. It requires States to provide a minimum of 30 percent in additional subsidies, and authorizes States to provide up to 49.92 percent of the capitalization grant in the CWSRF, and up to the entire amount of the grant in the DWSRF, in additional subsidization to any "eligible recipients" of SRF assistance.

Moreover, the similar provision in ARRA was in a one-time, supplemental appropriation that was in addition to the base SRF program appropriation for FY 2009. The additional subsidization provision in FY 2010 comes in the appropriation for the base SRF programs. By authorizing States to provide up to a majority (CWSRF) or entirety (DWSRF) of the base SRF program capitalization grant in additional subsidies, this FY 2010 provision contemplates the possibility that, for the first time, a minority or none of these base program capitalization grant funds will be repaid into the State Revolving Funds.

Under these circumstances, in which a large amount of base program capitalization grant funds will not revolve, it is prudent to include additional specifications in the capitalization agreements with States that ensure that the subsidies are funding infrastructure that is sustainable (not enabling the expansion of centralized infrastructure to accommodate growth while failing to adequately repair, replace, and upgrade infrastructure in existing communities who are not otherwise able to afford such projects). Section 602(a) of the CWA and section 1452(a)(3)(A)(i) of SDWA gives the authority to add such specifications to the capitalization grant. CWA Section 602(a) specifies that the "State shall enter into an agreement with the Administrator which shall include but not be limited to the specifications set forth in subsection (b)...." SDWA Section 1452(g)(3)(A) authorizes EPA to publish guidance "to ensure that each state commits and expends funds allotted to the State under this section as efficiently as possible." Therefore, EPA is adding a grant condition to all FY 2010 CWSRF and DWSRF capitalization grants.

- a. The recipient agrees to use funds provided by this grant to provide additional subsidization in the form of principal forgiveness, negative interest rate loans, or grants, in accordance with

P.L. 111-88 as follows:

- (1) The Clean Water State Revolving Fund capitalization recipient agrees to use at least \$33,682,584 and no more than \$112,275,279 of the funds provided by this grant to provide additional subsidization in accordance with P.L. 111-88, and as identified in the attached Office of Water January 15, 2010 memo titled "Availability of FY 2010 Clean Water Act Title VI Funds."

b. Priority for additional subsidies should be given to communities that could not otherwise afford such projects. To further ensure sustainability of projects receiving additional subsidies, these subsidies should be directed to:

- 1) repair, replacement, and upgrade of infrastructure in existing communities;
- 2) investigations, studies, or plans that improve the technical, financial and managerial capacity of the assistance recipient to operate, maintain, and replace financed infrastructure; and/or
- 3) preliminary planning, alternatives assessment and eligible capital projects that reflect the full life cycle costs of infrastructure assets, conservation of natural resources, and alternative approaches to integrate natural or "green" systems into the built environment.

The recipient agrees to provide in its Annual Report an explanation as to how they did or did not address this provision.

4. **Green Project Reserve (GPR):** The recipient agrees to make a timely and concerted solicitation for projects that address green infrastructure, water or energy efficiency improvements or other environmentally innovative activities. The recipient agrees to include in its IUP such qualified projects, or components of projects, that total an amount at least equal to 20% of its capitalization grant, or \$44,979,600. If there are not sufficient qualified projects or components already in the IUP that total 20% of the FY2010 funds available, the recipient agrees to conduct additional solicitation, to amend its project list to include any such qualified projects thus identified, and to provide not less than 20% of such FY 2010 funds available to such projects on its amended project list. If there are not sufficient qualified projects or components on the amended project list after such additional solicitation, the recipient may if necessary submit a waiver request to EPA in accordance with the FY 2010 Procedures.

5. Davis Bacon/Wage Rate Requirements:

CWSRF: The recipient agrees to include in all agreements to provide assistance for the construction of treatment works carried out in whole or in part with such assistance made available by a State water pollution control revolving fund as authorized by title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.); or with such assistance made available under section 205(m) of that Act (33 U.S.C. 1285(m)), or both, a term and condition requiring compliance with the requirements of section 513 of that Act (33 U.S.C. 1372) in all procurement contracts and sub-grants, and require that loan recipients, procurement contractors and sub-grantees include such a term and condition in subcontracts and other lower tiered transactions. All contracts and subcontracts for the construction of treatment works carried out in whole or in part with assistance made available as stated herein shall insert in full in any contract in excess of \$2,000 the contract clauses as attached hereto entitled "Wage Rate Requirements Under FY 2010 Appropriations." This term and condition applies to all agreements to provide assistance under the authorities referenced herein, whether in the form of a loan, bond purchase, grant, or any other vehicle to provide financing for a project, where such agreements are executed on or after October 30, 2009 and before October 1, 2010.

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 		A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee <i>Paula Ruff</i>	
1. Article Addressed to: <i>Matthew Driscoll, President NYS Environmental Conservancy 625 Broadway Albany, NY 12233-5010</i>		B. Received by (Printed Name) <i>Paula Ruff</i>	
		C. Date of Delivery <i>9/3/10</i>	
		D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
		3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Registered Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
		4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
2. Article Number (Transfer from service label)		7005 3110 0000 5927 4682	
PS Form 3811, August 2001		Domestic Return Receipt	

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 		A. Signature <input type="checkbox"/> Agent <input type="checkbox"/> Addressee <i>Alexander B. Grannis</i>	
1. Article Addressed to: <div style="border: 1px solid black; padding: 5px; margin: 5px;"> Alexander B. Grannis New York State Dept of Env Conserv 625 Broadway Albany, New York 12233-5010 </div>		B. Received by (Printed Name) 	
		C. Date of Delivery <i>9/3/10</i>	
		D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
		3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
		4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
2. Article Number (Transfer from service label)		7005 3110 0000 5940 6526	
PS Form 3811, August 2001		Domestic Return Receipt	